

(ii) *Phase 2.* NMFS shall reduce the trip limit for vessels issued longfin squid/butterfish moratorium permits (as specified at § 648.4(a)(5)(i)) fishing with a minimum mesh size of 3 inches (76 mm) to 5,000 lb (2.27 mt), when butterflyfish harvest reaches the relevant phase 2 trip limit reduction threshold. Trip limits for vessels issued longfin squid/butterfish moratorium permits fishing with mesh less than 3 inches (76 mm) will remain at 2,500 lb (1.13 mt) of butterflyfish per trip.

(iii) *Phase 3.* NMFS shall subsequently reduce the trip limit for vessels issued longfin squid/butterfish moratorium permits to 600 lb (0.27 mt), regardless of minimum mesh size, when butterflyfish harvest is projected to reach the relevant phase 3 trip limit reduction threshold. The NMFS Regional Administrator may adjust the butterflyfish trip limit during phase 3 of the directed butterflyfish fishery anywhere from 250 lb (0.11 mt) to 750 lb (0.34 mt) to ensure butterflyfish harvest does not exceed the specified DAH.

(2) *Butterfish ACL overage repayment.* If the butterflyfish ACL is exceeded, then catch in excess of the ACL will be deducted from the ACL the following year, as a single-year adjustment.

(3) *Butterfish mortality cap on the longfin squid fishery.* NMFS shall close the directed fishery in the EEZ for longfin squid when the Regional Administrator projects that 95 percent of each Trimester's butterflyfish mortality cap allocation has been harvested.

(4) *Butterfish ACL overage evaluation.* The ACL will be evaluated based on a single-year examination of total catch (landings and discards). Both landings and dead discards will be evaluated in determining if the ACL has been exceeded. NMFS shall make determinations about overages and implement any changes to the ACL, in accordance with the Administrative Procedure Act, through notification in the FEDERAL REGISTER, by May 15 of the fishing year in which the deductions will be made.

(5) *Butterfish allocation transfer.* NMFS may transfer up to 50 percent of any unused butterflyfish allocation from the butterflyfish DAH to the butterflyfish mortality cap on the longfin squid fishery if the butterflyfish catch in the

longfin squid fishery is likely to result in a closure of the longfin squid fishery, and provided the transfer does not increase the likelihood of closing the directed butterflyfish fishery. NMFS may instead transfer up to 50 percent of the unused butterflyfish catch from the butterflyfish mortality cap allocation to the butterflyfish DAH if harvest of butterflyfish in the directed butterflyfish fishery is likely to exceed the butterflyfish DAH, and provided the transfer of butterflyfish allocation from the butterflyfish mortality cap allocation does not increase the likelihood of closing the longfin squid fishery due to harvest of the butterflyfish mortality cap. NMFS would make this transfer on or about November 15 each fishing year, in accordance with the Administrative Procedure Act.

(d) *Notification.* Upon determining that a closure or trip limit reduction is necessary, the Regional Administrator will notify, in advance of the closure, the Executive Directors of the MAFMC, NEFMC, and SAFMC; mail notification of the closure or trip limit reduction to all holders of mackerel, squid, and butterflyfish fishery permits at least 72 hr before the effective date of the closure; provide adequate notice of the closure or trip limit reduction to recreational participants in the fishery; and publish notification of the closure or trip limit reduction in the FEDERAL REGISTER.

[76 FR 60619, Sept. 29, 2011, as amended at 76 FR 68656, Nov. 7, 2011; 77 FR 16480, Mar. 21, 2012; 77 FR 3354, Jan. 16, 2013; 78 FR 76762, Dec. 19, 2013; 79 FR 18843, Apr. 4, 2014; 79 FR 18481, Apr. 2, 2014]

§ 648.25 Atlantic Mackerel, squid, and butterflyfish framework adjustments to management measures.

(a) *Within season management action.* The MAFMC may, at any time, initiate action to add or adjust management measures within the Atlantic Mackerel, Squid, and Butterflyfish FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the FMP.

(1) *Adjustment process.* The MAFMC shall develop and analyze appropriate management actions over the span of at least two MAFMC meetings. The MAFMC must provide the public with

advance notice of the availability of the recommendation(s), appropriate justification(s) and economic and biological analyses, and the opportunity to comment on the proposed adjustment(s) at the first meeting and prior to and at the second MAFMC meeting. The MAFMC's recommendations on adjustments or additions to management measures must come from one or more of the following categories: Adjustments within existing ABC control rule levels; adjustments to the existing MAFMC risk policy; introduction of new AMs, including sub-ACTs; minimum fish size; maximum fish size; gear restrictions; gear requirements or prohibitions; permitting restrictions, recreational possession limit; recreational seasons; closed areas; commercial seasons; commercial trip limits; commercial quota system, including commercial quota allocation procedure and possible quota set-asides to mitigate bycatch; recreational harvest limit; annual specification quota setting process; FMP Monitoring Committee composition and process; description and identification of EFH (and fishing gear management measures that impact EFH); description and identification of habitat areas of particular concern; overfishing definition and related thresholds and targets; regional gear restrictions; regional season restrictions (including option to split seasons); restrictions on vessel size (LOA and GRT) or shaft horsepower; any other management measures currently included in the FMP, set aside quota for scientific research, regional management; process for inseason adjustment to the annual specification; mortality caps for river herring and shad species; time/area management for river herring and shad species; and provisions for river herring and shad incidental catch avoidance program, including adjustments to the mechanism and process for tracking fleet activity, reporting incidental catch events, compiling data, and notifying the fleet of changes to the area(s); the definition/duration of 'test tows,' if test tows would be utilized to determine the extent of river herring incidental catch in a particular area(s); the threshold for river herring incidental catch that would trigger the

need for vessels to be alerted and move out of the area(s); the distance that vessels would be required to move from the area(s); and the time that vessels would be required to remain out of the area(s). Measures contained within this list that require significant departures from previously contemplated measures or that are otherwise introducing new concepts may require amendment of the FMP instead of a framework adjustment.

(2) *MAFMC recommendation.* After developing management actions and receiving public testimony, the MAFMC shall make a recommendation to the Regional Administrator. The MAFMC's recommendation must include supporting rationale, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the MAFMC recommends that the management measures should be issued as a final rule, the MAFMC must consider at least the following factors, and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether the regulations would have to be in place for an entire harvest/fishing season.

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the recommended management measures.

(iii) Whether there is an immediate need to protect the resource.

(iv) Whether there will be a continuing evaluation of management measures following their implementation as a final rule.

(3) *NMFS action.* If the MAFMC's recommendation includes adjustments or additions to management measures and, after reviewing the MAFMC's recommendation and supporting information:

(i) If NMFS concurs with the MAFMC's recommended management measures and determines that the recommended management measures

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should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER.

(ii) If NMFS concurs with the MAFMC's recommended management measures and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if NMFS concurs with the MAFMC recommendation, the measures will be issued as a final rule in the FEDERAL REGISTER.

(iii) If NMFS does not concur, the MAFMC will be notified in writing of the reasons for the non-concurrence.

(4) *Emergency actions.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

(b) [Reserved]

[76 FR 60620, Sept. 29, 2011, as amended at 76 FR 68656, Nov. 7, 2011; 76 FR 81848, Dec. 29, 2011; 79 FR 10048, Feb. 24, 2014]

§ 648.26 Mackerel, squid, and butterflyfish possession restrictions.

(a) *Atlantic mackerel.* (1) A vessel must be issued a valid limited access mackerel permit to fish for, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel from or in the EEZ per trip, provided that the fishery has not been closed because 90 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i).

(i) A vessel issued a Tier 1 Limited Access Mackerel Permit is authorized to fish for, possess, or land Atlantic mackerel with no possession restriction in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 95 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i).

(ii) A vessel issued a Tier 2 Limited Access Mackerel Permit is authorized to fish for, possess, or land up to 135,000 lb (61.23 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any cal-

endar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 95 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i).

(iii) A vessel issued a Tier 3 Limited Access Mackerel Permit is authorized to fish for, possess, or land up to 100,000 lb (45.36 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the Tier 3 allocation has been harvested, or 95 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i) and (ii).

(iv) A vessel issued an open access mackerel permit may fish for, possess, or land up to 20,000 lb (9.08 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(v) Both vessels involved in a pair trawl operation must be issued a valid mackerel permits to fish for, possess, or land Atlantic mackerel in the EEZ. Both vessels must be issued the mackerel permit appropriate for the amount of mackerel jointly possessed by both of the vessels participating in the pair trawl operation.

(2) *Mackerel closure possession restrictions.* (i) *Commercial mackerel fishery.* During a closure of the commercial Atlantic mackerel fishery, including closure of the Tier 3 fishery, vessels issued a Limited Access Mackerel Permit may not fish for, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(ii) [Reserved]

(b) *Longfin squid.* (1) Unless specified in paragraph (b)(2) of this section, during a closure of the directed fishery for longfin squid vessels may not fish for, possess, or land more than 2,500 lb (1.13 mt) of longfin squid per trip at any time, and may only land longfin squid